



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[EPA-R09-OAR-2018-0133; FRL-9975-96-Region 9]

Air Plan Revisions; Salt River Pima-Maricopa Indian Community; Navajo Nation; California; Correcting Amendments

AGENCY: Environmental Protection Agency

ACTION: Final rule, correcting amendment.

SUMMARY: On April 29, 2011, the Environmental Protection Agency (EPA) published a direct final rule in the **Federal Register** redesignating a section in the air quality planning and management regulations for Indian Country; and on January 17, 2012, February 13, 2012, July 2, 2012, June 14, 2017, and June 21, 2017, the EPA published final rules in the **Federal Register** approving certain revisions to the California State Implementation Plan (SIP). In these final rules, the EPA included inaccurate amendatory instructions that have prevented incorporation of the final actions into the CFR. All the errors are being corrected by this action.

DATES: This action is effective on **[Insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972-3073, Gong.Kevin@epa.gov.

SUPPLEMENTARY INFORMATION: This action corrects inadvertent errors in the amendatory instructions in final rulemakings affecting 40 CFR parts 49 and 52. An explanation of each correction is listed below.

Part 49 – Indian County: Air Quality Planning and Management

On April 29, 2011 (76 FR 23876), the EPA published a direct final rule that, among other actions, moved sections 49.22, 49.23 and 49.24 out of subpart A (Tribal Authority), which is intended to include provisions relating generally to tribal authority regardless of the EPA Region in which a tribe is located, to sections 49.5511, 49.5512, and 49.5513, respectively, in subpart L (Implementation Plans for Tribes—Region IX) such that all implementation plan provisions that apply specifically to Region IX tribes are located together. However, the action of moving section 49.22 to 49.5511 could not be done as section 49.5511 was already in existence at that time. In this action, the EPA is redesignating section 49.22 in subpart A as section 49.5515 in subpart L. The EPA is also taking this opportunity to add certain headings in subpart L for the Salt River Pima-Maricopa Indian Community and the Navajo Nation consistent with the other tribes included in subpart L.

Part 52 – Approval and Promulgation of Implementation Plans

On January 17, 2012 (77 FR 2228), the EPA published a final rule approving San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4570 (Confined Animal Facilities) as a revision to the California SIP. However, the amendatory instruction was inaccurate. More specifically, the instructions for revisions to section 52.220 should have added paragraph (c)(388)(i)(B)(6) rather than paragraph (c)(388)(i)(B)(5), which was already in existence codifying approval of a different provision related to SJVUAPCD's rules. Thus, the approval of the SJVUAPCD Rule 4570 could not be incorporated into section 52.220(c)(388)(i)(B). The EPA is correcting the amendatory instruction for SJVUAPCD Rule 4570 in today's action.

On February 13, 2012 (77 FR 7536), the EPA published a final rule approving SJVUAPCD Rule 4612 (Motor Vehicle and Mobile Equipment Coating Operations) and Rule

4653 (Adhesives and Sealants) as revisions to the California SIP. Due to inaccurate amendatory instructions, the approval of the two rules could not be incorporated into section 52.220(c)(388)(i)(B). More specifically, the instructions for revisions to section 52.220 should have added paragraphs (c)(388)(i)(B)(7) and (c)(388)(i)(B)(8) rather than paragraphs (c)(388)(i)(B)(2) and (c)(388)(i)(B)(3), which were already in existence codifying approval of other SJVUAPCD regulatory materials. The EPA is correcting the amendatory instructions for SJVUAPCD Rules 4612 and 4653 in today's action.

On July 2, 2012 (77 FR 39181), the EPA published a final rule approving Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.43 (Biomass Boilers) as a revision to the California SIP. However, the instructions for revisions to section 52.220 should have added paragraph (c)(388)(i)(H) rather than paragraph (c)(388)(i)(F), which was already in existence for approved rules adopted by the Mojave Desert Air Quality Management District. Thus, the approval of YSAQMD Rule 2.43 could not be incorporated into section 52.220(c)(388)(i). The EPA is correcting the amendatory instructions for YSAQMD Rule 2.43 in today's action.

On June 14, 2017 (82 FR 27125), the EPA published a final rule approving the Imperial County Air Pollution Control District (ICAPCD) Rule 206 (Processing of Applications) as a revision to the California SIP. However, the instructions for revisions to section 52.220 should have added paragraph (c)(442)(i)(A)(5) rather than paragraph (c)(442)(i)(A)(4), which was already in existence. Thus, the approval of ICAPCD Rule 206 could not be incorporated into section 52.220(c)(442)(i)(A). The amendatory instruction for ICAPCD Rule 206 was corrected at 82 FR 41895, 41898-41899 (September 5, 2017); however, the correction did not make the conforming revision to paragraph (c)(279)(i)(A)(16), which was added in the June 14, 2017

rulemaking and which deletes (with replacement) a prior version of ICAPCD Rule 206. The EPA is making the conforming revision in today's action.

On June 21, 2017 (82 FR 28240), the EPA published a direct final rule approving Mojave Desert Air Quality Management District (MDAQMD) Rule 1118 (Aerospace Assembly, Rework and Component Manufacturing Operations) as a revision to the California SIP. However, the approval of MDAQMD Rule 1118 could not be incorporated into section 52.220(c)(485) because the instructions for revisions to section 52.220 added paragraph (c)(485)(B), which is inconsistent with the current format for adding paragraphs to 52.220(c). The instructions should have added paragraph (c)(485)(i)(B). The EPA is correcting the amendatory instructions for MDAQMD Rule 1118 in today's action.

The EPA has determined that this action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because the underlying rules for which this correcting amendment have been prepared were already subject to 30-day comment periods. Further, this action is consistent with the purposes and rationales of the final rules for which inaccurate amendatory instructions are being corrected herein. Because this action does not change the EPA's analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication "as otherwise provided by the

agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects inaccurate amendatory instructions in previous rulemakings. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the APA or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 49

Environmental protection, Air Pollution, Indians—lands, Indians—tribal government.

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: March 13, 2018.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 49.22 [Redesignated as § 49.5515]

2. Redesignate § 49.22 as § 49.5515, and add and reserve a new § 49.22.

Subpart L [Amended]

3. Amend Subpart L by adding an undesignated center heading immediately before § 49.5512 entitled ““Implementation Plan for the Navajo Nation”.

4. Amend Subpart L by adding immediately before the newly redesignated § 49.5515 an undesignated center heading entitled “Implementation Plan for the Salt River Pima-Maricopa Indian Community”.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

5. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

6. Section 52.220 is amended by:

- a. Revising paragraph (c)(279)(i)(A)(16);
- b. Adding paragraphs (c)(388)(i)(B)(6), (7) and (8);
- c. Adding paragraph (c)(388)(i)(H); and
- d. Adding paragraph (c)(485)(i)(B).

The additions and revisions read as follows:

§ 52.220 Identification of plan--in part.

* * *

(c) * *

(279) * *

(i) * *

(A) * *

(16) Previously approved on January 3, 2007 in paragraph (c)(279)(i)(A)(14) of this section and now deleted with replacement in paragraph (c)(442)(i)(A)(5) of this section, Rule 206.

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(388) * *

(i) * *

(B) * *

(6) Rule 4570, “Confined Animal Facilities,” amended on October 21, 2010.

(7) Rule 4612, “Motor Vehicle and Mobile Equipment Coating,” amended on October 21, 2010.

(8) Rule 4653, “Adhesives and Sealants,” amended on September 16, 2010.

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(H) Yolo-Solano Air Quality Management District.

(I) Rule 2.43, “Biomass Boilers,” adopted on November 10, 2010.

* * *

(485) * *

(i) * *

(B) Mojave Desert Air Quality Management District.

(I) Rule 1118, “Aerospace Assembly, Rework and Component Manufacturing Operations,” amended on October 26, 2015.

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[FR Doc. 2018-06126 Filed: 3/27/2018 8:45 am; Publication Date: 3/28/2018]